



## Understanding the New Trade Crimes Enforcement Agenda of CBP and DOJ

February 05, 2026



# Agenda

---

- I. Enforcement Priorities and Interagency Alignment
- II. Framing Trade Fraud
- III. Civil and Criminal Investigative Techniques
- IV. Recent Enforcement Actions
- V. Responding to a DOJ or CBP Inquiry
- VI. Penalties, Aggravating Factors, and Mitigation
- VII. Voluntary Self-Disclosure to DOJ vs. Prior Disclosure to CBP
- VIII. Practical Takeaways and Q&A



# ENFORCEMENT PRIORITIES AND INTERAGENCY ALIGNMENT

# Trump Administration Promotes Trade and Customs Fraud to Top of Enforcement Agenda

---

- **The Administration Established the Trade Fraud Task Force to promote the President’s “America First Trade Policy”**
  - Coordination between DOJ Civil and Criminal Divisions with Homeland Security Investigations (HSI) and Customs and Border Protection (CBP)
  - Stated goal to “aggressively pursue enforcement actions against any parties who seek to evade tariffs and other duties, as well as smugglers who seek to import prohibited goods into the American economy.”
  - DOJ created the Market, Government, and Consumer Fraud Unit (MGC), which will target “large-scale trade and customs fraud, including individuals and companies who orchestrate criminal schemes to circumvent tariff and trade rules and regulations.”

# Enforcement Priorities – Parallel and Overlapping Investigations Across Agencies

## *National Security and Economic Harm Focuses*

- Trade Fraud Task Force: DOJ, CBP, and HSI
- Labeling and counterfeit: FTC and ICE
- Sanctions and export controls: BIS and OFAC



PRESS RELEASE

### Departments of Justice and Homeland Security Partnering on Cross-Agency Trade Fraud Task Force

Friday, August 29, 2025

For Immediate Release  
Office of Public Affairs



U.S. Customs and Border Protection

[Home](#) » [Newsroom](#) » [Local Media Release](#) »

CBP plays major role in HSI, IRS trade fraud probe; two arrested, \$13.6 million in gold seized; suspected \$86.47 million in duties evaded

**CBP plays major role in HSI, IRS trade fraud probe; two arrested, \$13.6 million in gold seized; suspected \$86.47 million in duties evaded**

Release Date: Mon, 11/17/2025



# DOJ Views Customs Fraud as Part of Overlapping Trade and National Security Enforcement Areas

## ■ Traditional CBP Enforcement Areas

- False country of origin
- Undervaluation schemes
- Tariff misclassification
- Anti-dumping
- UFLPA detentions

## ■ Trade and national security enforcement areas

- Sanctions Evasion
- Cartel and Transnational Criminal Organizations
- International corruption that disadvantages U.S. businesses
- Trade based money laundering



FOLEY  
HOAG

# FRAMING TRADE FRAUD: ENFORCEMENT STATUTES

# Enforcement Priorities – DOJ’s Tool of Choice

- DOJ intends to robustly use the False Claims Act (FCA), 31 U.S.C. §3729.
  - FCA applies to evasions of obligations to pay the government for duties and tariffs owed
  - Allows DOJ to collect treble damages
  - A competitor, third party, or employee-insider (whistleblower) can commence an FCA action that DOJ can choose to prosecute (e.g., a “qui tam” plaintiff or “relator”)
    - ◆ Incentivized by up to 30% of proceeds of recovery for the government, or 25% if government intervenes
  - Qui Tam action can be commenced in U.S. District Court

# The Tariff Act of 1930

---

- 19 U.S.C. § 1592 (as amended in 1978) prohibits importation of merchandise by means of a false statement or omission
  - Imposes reasonable care standard on importers when entering goods into the U.S.
  - Used to Impose Civil Penalties against Importers
  - Penalties increase depending on level of culpability: negligence, gross negligence or fraud
  - Pre-petition notice period, which gives importer an opportunity to respond to allegations prefiling
  - CBP enforcement proceeds are appealed to the Court of International Trade

# DOJ Framing – False Country of Origin

---

- Customs fraud (18 U.S.C. § 542)
- Smuggling goods into the United States (18 U.S.C. § 545)
- Conspiracy to defraud the United States (18 U.S.C. § 371)
- Wire fraud (18 U.S.C. § 1343)
- False statement (18 U.S.C. § 1001)

# DOJ Framing – Undervaluation

---

- Criminal statute: 18 U.S.C. § 542 (entry by false statement)
  - Valuation statute: 19 U.S.C. § 1401a
- Conspiracy, wire fraud, false statement
- Schemes and devices:
  - Invoicing Fraud
  - Transfer pricing abuse
  - “First sale” misuse
  - Side payments
  - Related-party schemes

# DOJ Framing – Misclassification

- Issue: willful misclassification of goods under the HTS to:
  - Benefit from lower duty categories
  - Evade antidumping/countervailing duties
  - Circumvent quotas or restrictions
  
- Means:
  - False statements
  - Misleading product descriptions
  - Laboratory test spoofing
  
- Bases for criminal liability: 18 U.S.C. §§ 542 (entry by false statement), 545 (smuggling), & 1001 (false statement)

## DOJ Framing – UFLPA

---

- Falsified supply chain documentation (18 U.S.C. §§ 542, 1001, 1519)
- Recordkeeping failures (18 U.S.C. § 1519)
- Obstruction and false statements (18 U.S.C. §§ 1001, 1505, 1519)
- Willful supply chain risk ignorance (18 U.S.C. §§ 542 & 545)



# CIVIL AND CRIMINAL INVESTIGATIVE TECHNIQUES

# Investigative Techniques – The Government’s Toolbox

## Civil Investigations

CBP  
Requests for  
Information

Notices of  
Action

Audits and  
Focused  
Assessment

19 U.S.C §  
1592

UFLPA  
detentions  
and  
exclusions

CID

## Criminal Investigations

Grand Jury  
Subpoenas

Search  
Warrants

Title 18 and  
Title 19

Undercover  
Operations

Informants  
and  
Witnesses

# Investigative Techniques –Technologies

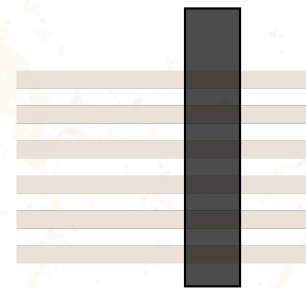
Entry filings  
analytics

Cargo Classification  
Tool and  
Commodity  
Detection Model

Supply chain  
tracing

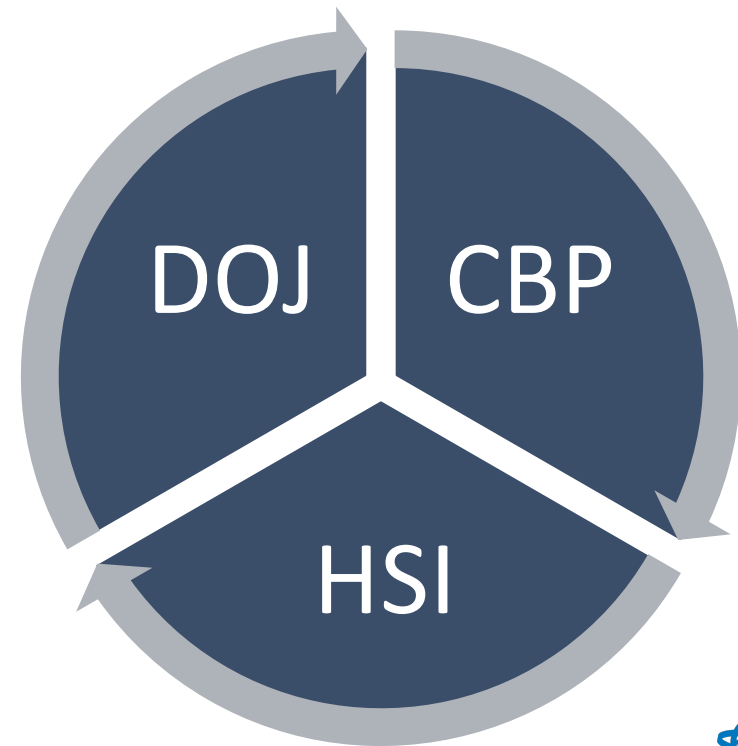
Third-country  
routing analysis

Trade data  
anomaly detection



# Enforcement Priorities – DOJ’s Increasing Coordination with CBP & HSI

- Data sharing
- Parallel Investigations
- Coordinated use of administrative and criminal tools to build cases





# RECENT ENFORCEMENT ACTIONS

# Recent FCA Resolutions

## ■ Aggressive pursuit of restitution for duty loss

### - *Ceratizit* Settlement (December 2025)

- ◆ Tungsten Carbide product manufacturer accused of country-of-origin misrepresentation and Harmonized Tariff Schedule (HTS) misclassification
- ◆ \$54,400,000, including \$27,200,000 in restitution
- ◆ DOJ settlement of *Qui tam* whistleblower action under the FCA

## ■ Voluntary Disclosure and Individual Accountability

### - *MGI International, LLC* (December 2025)

- ◆ Plastic resin distributor **voluntarily disclosure** of customs duties evasion
- ◆ \$6,800,000 corporate FCA liability
- ◆ COO individually pled to conspiracy to smuggle goods



# Example of Interagency Coordination

---

- Forfeiture of valuable goods
  - CBP/HSI/IRS gold jewelry seizure (November 2025)
    - ◆ Two individuals accused of mischaracterizing gold jewelry shipments as “U.S. goods returned”
    - ◆ \$13,360,000 in gold seized; \$86,470,000 in evaded duties claimed
    - ◆ Individuals arrested for false statements, wire fraud, and money laundering

# Highlighted Development: UFLPA Enforcement Multiplying

- Calendar Year 2025 saw a flurry of new anti-forced labor enforcement:
  - Five new Withhold Release Orders (WROs) issued, covering salt, seafood, bicycle, textile, and tire companies
  - 6,636 shipment detentions in 2025, up 44% from 2024
  - UFLPA Entity List includes 144 entities, up from 107
- Government focuses:
  - Risk-based targeting
  - Entity lists
  - Supply chain mapping
  - Willful blindness and obstruction



# RESPONDING TO A DOJ OR CBP INQUIRY

# DOJ or CPB Inquiry: Response Protocols

---

## Ensure compliance with legal obligations

1. Preservation of evidence
2. Scoping of systems and custodians
3. Legal hold protocols

## Inquiry response and escalation

1. Brief management
2. Risk and materiality assessment
3. Understand broker and supplier roles
4. Assess adequacy and violations of compliance policies and internal controls
5. Outreach by outside counsel to DOJ and/or CPB to indicate cooperation





# **PENALTIES, AGGRAVATING FACTORS, AND MITIGATION**

# Penalties – Core Frameworks

## Criminal Liability: Title 18 violations

- Fines generally up to \$250,000 for individuals and \$500,000 for entities, per violation
- Imprisonment ranges:
  - § 542: 0–2 years per offense
  - § 1001 and § 371: 0–5 years
  - § 1343 and § 1519: 0–20 years
- Corporate criminal liability is based on an assessment of total loss or gain and multiplier factors under the Sentencing Guidelines
- Collateral consequences: Debarment, loss of trusted trader benefits

## Administrative Liability: 19 U.S.C. § 1592

- Maximum penalty varies by mental state
  - Fraud: domestic value of merchandise
  - Gross negligence: Lesser of domestic value or 4 times lawful duties deprived\*
  - Negligence: Lesser of domestic value or two times lawful duties deprived\*
- Aggravating factors, elaborated in Appendix B to 19 C.F.R. Part 171, include:
  - Obstruction and withholding evidence
  - Prior violations
  - Evidence of motive to evade admissibility restrictions
  - Illegal textile transshipment

\*Lower maximum penalties available if no revenue loss



# Penalties – Aggravating and Mitigating Factors

## Title 18 Criminal Violations: U.S. Sentencing Guidelines

- Aggravating factors include:
  - Sophisticated means
  - Senior management involvement
  - Lack of cooperation
  - Recidivism
- Mitigating factors include:
  - Acceptance of responsibility
  - Substantial assistance to authorities
  - Voluntary self-disclosure

## Tariff Act Violations: Appendix B to 19 C.F.R. Part 171

- Aggravating factors include:
  - Obstruction and withholding evidence
  - Prior violations
  - Evidence of motive to evade admissibility restrictions
- Mitigating factors include:
  - Contributory error by Customs Service
  - Cooperation with investigation
  - Immediate remedial action, including remediation and discipline
  - Inexperience in importing
  - Prior good record





**VOLUNTARY SELF-DISCLOSURE TO DOJ  
VS.  
PRIOR DISCLOSURE TO CBP**

# Self-Disclosure and Prior Disclosure – Compared

## DOJ Voluntary Self-Disclosure

- Justice Manual 9-47.120
- Company prosecution declined when:
  - Company voluntary self-discloses
  - Company fully cooperates with investigation
  - Company timely and appropriate remediates
  - No aggravating circumstances, egregiousness, pervasiveness of misconduct, or recent similar misconduct
- Resolutions still available in “Near Miss” self-disclosures and if aggravating factors present

## CBP Prior Disclosure

- 19 U.S.C. § 1592(c)(4)
- Merchandise seizure avoided and monetary penalty avoided if disclosure made before or without knowledge of commencement of a formal investigation
- Generally look back a five-year period
- Importer of Record must tender total duties owed (Loss of Revenue) plus interest

# Self-Disclosure and Prior Disclosure – Practical Considerations

## SELF DISCLOSURE TO DOJ

- Identification of deliberate misstatement with respect to entry of goods, country of origin, anti-dumping or UFLPA obligations
- Potential overlapping criminal exposure with other areas (e.g., sanctions)
- Potential for notification to DOJ and possible investigation
- Potential for significant penalties
- Importer must be prepared to cooperate, provide information on individuals, and pay disgorgement and possible penalty

## PRIOR DISCLOSURE TO CBP

- Identification of systemic entry errors
- Errors based on negligence, lack of intent
- Contacted by CBP specialist or audit team
- Importer must be prepared to:
  - Undertake appropriate sampling in connection with prior disclosure
  - Expand sampling to other problematic areas for IOR and affiliated entities
  - Tender LOR
  - Engage in necessary remediation



# Practical Takeaways





# Questions?



**Anthony Mirenda**

**Partner and Co-Chair, White Collar Crime & Government Investigations**

Phone: 617.832.1220  
Email: [amirenda@foleyhoag.com](mailto:amirenda@foleyhoag.com)



**Adam Safwat**

**Partner and Co-Chair, White Collar Crime & Government Investigations**

Phone: 202.261.7372  
Email: [asafwat@foleyhoag.com](mailto:asafwat@foleyhoag.com)



## BOSTON

Seaport West  
155 Seaport Boulevard  
Boston, MA 02210

## DENVER

Denver Tech Center,  
Regency Plaza  
4643 South Ulster Street, Suite 970  
Denver, CO 80237

## NEW YORK

1301 Avenue of the Americas  
New York, NY 10019

## PARIS

153 rue du Faubourg Saint-Honoré  
75008, Paris France

## WASHINGTON, DC

1717 K Street N.W.  
Washington, DC 20006

